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Amendment After Final
Attorney Docket No. S63.2B-10014-US01

Remarks

This Amendment is in response to the Final Office Action dated July 19, 2004. In the Office Action claim 38 was rejected under 35 USC 112, first paragraph. Claims 3 and 38 were rejected under 35 USC 112, second paragraph. Claim 1-3, 5-7, 36 and 38 were rejected under 35 USC 102(b) as being anticipated by Vonesh et al (WO 00/33770). Claims 8, 37, and 38 were rejected under 35 USC 103(a) as being unpatentable over Vonesh et al. Claim 38 was rejected under 35 USC 103(a) as being unpatentable over Vrba. Claims 1 and 38 have been amended. No new matter has been added. The rejections will be addressed under headings consistent with the basis of the rejection.

INVENTORSHIP

The Office Action indicates that the request to correct inventorship is deficient because it lacks the written consent of any assignee of one of the originally named inventors. Applicant has resubmitted the request to correct inventorship including consent of the assignee to Mail Stop Petition.

35 USC 112

In the Office Action, claim 38 was rejected under 35 USC 112, first paragraph. The Office Action asserts that there is no basis for the limitation that the self-expanding cells are capable of self-expansion independently of the balloon expandable cells (i.e that the self-expanding cells expand independently of the balloon expandable cells).

Applicant does not concur in the rejection but has amended the claim to overcome the rejection.

35 USC 102(b)

In the Office Action, claim 1-3, 5-7, 36 and 38 were rejected under 35 USC 102(b) as being anticipated by Vonesh et al (WO 00/33770). The Office Action points to figure 9 as disclosing balloon expandable segments and self-expanding segments.

Claim 1 has been amended to recite the first and second balloon expandable segments "having a plurality of openings therethrough, the openings extending all the way

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through the sidewall of the stent". Vonesh does not teach or suggest this limitation. Instead, Vonesh teaches a stent having balloon expandable segments having a graft or sleeve without the openings recited in claim 1 of the instant application. For at least this reason applicant believes amended claim 1 overcomes the 102(b) rejection.

Regarding independent claim 5, the Office Action has not addressed all the limitations of the claim. Claim 5 recites "the end island extending over less than the entire circumference of the stent and being circumferentially and axially adjacent to balloon expandable but non-self-expanding cells". Vonesh does not teach or suggest this limitation. In fact, Vonesh teaches bands which extend over the entire circumference of the stent.

For at least the above reasons, Vonesh fails to teach or suggest the limitations of claim 5. Applicant believes claim 5 and claims 6-9 dependent thereof are in condition for allowance.

Claim 38 has been amended to recite the presence of a plurality of self-expanding segments, some of which are longitudinally and circumferentially offset from one another. This feature is not disclosed or suggested in Vonesh. The bands of Vonesh are aligned with one another. For at least this reason, Vonesh does not anticipate amended claim 38.

Applicant respectfully requests that the 102(b) anticipation rejection of claims 1-3, 5-7, 36 and 38 be withdrawn.

35 USC 103(a)

In the Office Action claims 8, 37, and 38 were rejected under 35 USC 103(a) as being unpatentable over Vonesh et al.

As to claim 8 dependent upon claim 5, Applicant notes, as stated above regarding independent claim 5, that Vonesh does not suggest an end island extending over less than the entire circumference of the stent and being circumferentially and axially adjacent to balloon expandable but non-self-expanding cells. Claim 8 is patentable over Vonesh for at least the reason that it depends upon claim 5 which is believed to be in condition for allowance as stated above.

As to claim 37 dependent upon claim 1, Applicant notes that Vonesh does not suggest first and second balloon expandable segments having a plurality of openings

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therethrough, the openings extending all the way through the sidewall of the stent. At least for this reason, claim 8 is patentable over Vonesh.

As to claim 38, as discussed above, Vonesh does not teach or suggest the presence of a plurality of self-expanding segments, some of which are longitudinally and circumferentially offset from one another. For at least this reason, claim 38 is patentable over Vonesh.

Claim 38 was rejected under 35 USC 103(a) as being unpatentable over Vrba. The Office Action acknowledges that Vrba does not disclose a second balloon expandable segment. Claim 38 has been amended. Vrba does not teach or suggest the limitations of amended claim 38 which recites in part "a plurality of self-expanding segments some of which are longitudinally and circumferentially offset from one another with balloon expandable segments therebetween". Applicant respectfully requests that the 35 USC 103(a) rejection of claim 38 be withdrawn.


CONCLUSION

In view of the foregoing, it is believed that the present application, with claims 1-3, 5-9, and 36-38, is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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